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10 **UNLIMITED JURISDICTION**
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**

13 WILLIAM TAYLOR,

14 Plaintiff,

15 vs.

16 CITY OF BURBANK and DOES 1 through
17 100, inclusive,

18 Defendants.

CASE NO. BC 422 252

[Assigned to the Hon. John L. Segal,
Judge, Dept. "50"]

OBJECTION TO DEFENDANT'S
REPLY TO PLAINTIFF'S OPPOSITION
TO MOTION FOR NEW TRIAL AND IN
THE ALTERNATIVE JNOV

Date: June 6, 2012
Time: 8:30 a.m.
Dept.: "50"

Action Filed: September 22, 2009
Trial: March 5, 2012

24 TO THE COURT, ALL PARTIES TO THIS ACTION, AND THEIR RESPECTIVE
25 COUNSEL OF RECORD:

26 Plaintiff WILLIAM TAYLOR hereby objects to Defendant CITY OF BURBANK's
27 Reply to Plaintiff's Opposition to Motion for New Trial and in the Alternative JNOV. The
28

1 grounds for this objection are as follows:

2 Plaintiff hereby objects to Defendant's reply brief and declarations to Plaintiff's
3 opposition to motion for new trial. The timing for filing affidavits under California *Code of*
4 *Civil Procedure* Sections 659 and 659a do not provide for a reply. California *Code of Civil*
5 *Procedure* Section 659a specifically provides:


6
7 Within ten days of filing the notice, the moving party shall serve
8 upon all other parties and file any affidavits intended to be
9 used upon such motion.

10 Accordingly, there is no provision that permits Defendant to have two bites at the
11 apple in which new affidavits can be filed in response to Plaintiff's opposition. As such,
12 Defendant's reply should be rejected and not considered by the Court.
13

14
15 Dated: June 1, 2012

LAW OFFICES OF GREGORY W. SMITH

16
17 By:



18 GREGORY W. SMITH
Attorneys for Plaintiff
19 WILLIAM TAYLOR
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PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 9100 Wilshire Boulevard, Suite 345E, Beverly Hills, California 90212.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

DATE OF SERVICE : June 1, 2012

DOCUMENT SERVED : **OBJECTION TO DEFENDANT'S REPLY TO
PLAINTIFF'S OPPOSITION TO MOTION FOR NEW
TRIAL AND IN THE ALTERNATIVE JNOV**

PARTIES SERVED : **SEE ATTACHED SERVICE LIST.**

XXX (BY REGULAR MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Beverly Hills, California. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XXX (BY ELECTRONIC MAIL) I caused such document to be electronically mailed to **Christopher Brizzolara, Esq.** at the following e-mail address: samorai@adelphia.net.

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Beverly Hills, California on June 1, 2012.

Selma I. Francia

SERVICE LIST

**WILLIAM TAYLOR v. CITY OF BURBANK
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. BC 422 252**

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